

STATE AND TRIBAL GOVERNMENT WORKING GROUP (STGWW)

Santa Fe, New Mexico

May 14-17, 2007

KEY OUTCOMES & SUCCESSFUL FOLLOW-UP

OVERVIEW

- The Spring 2007 STGWW meeting was well-attended. Approximately 75 people were in attendance over the course of the meeting. Attendees included tribal leadership, tribal staff, state regulators, state legislators, and DOE personnel. The diverse group contributed to meaningful dialogue that will help move the complex cleanup process forward in years to come.
- STGWW members were pleased with the expanded format of the meeting, which included several joint sessions with the State Legislative Roundtable on Environmental Management. STGWW members had the opportunity to hear from state legislators from around the complex, and were happy with the new dynamic during the meeting.
- STGWW members are thankful for the opportunity to take guided tours of Sandia National Lab and the Cochiti Pueblo Reservation. Both tours provided useful and relevant information for STGWW states and tribes. The hospitality at both locations was much appreciated.
- Dr. Ines Triay's and Michael Richard's participation was a significant reason for the meeting's success. Their willingness to engage in conversation was welcomed by the group. They committed to several action items in response to the questions and comments raised throughout the meeting.
- STGWW members would like to especially thank Tom Winston for his continued leadership. Tom has repeatedly led planning efforts prior to meetings, facilitation efforts during meetings, and coordination efforts after meetings. Without these efforts, along with the support of Brandt Petrsek and Melissa Nielson at DOE, STGWW would not be possible.

TRIBAL ISSUES

- STGWW appreciates the efforts to achieve concurrence by EM, NE, and Science on the Implementation Framework for DOE's Tribal Government Policy. STGWW is hopeful that NNSA's concurrence will be included in the package that Secretary Bodman will review and sign. After the document becomes official, STGWW tribes will likely comment on it and any changes that have been made. STGWW looks forward to the Framework being followed in practice.
- STGWW complements DOE for acting on tribal government recommendations with the likely appointment an American Indian to oversee the newly created DOE Office of Indian Energy Policy & Programs. As requested by Deputy Assistant Secretary

Michael Richard, STGWG tribes will continue to provide input to DOE on the new Office's composition and functions.

- STGWG is pleased with the Administration's decision to urge Congress to respect tribal sovereignty by staying out of rights-of-way disputes unless the disagreement has a significant effect on regional or national energy supply. STGWG will continue to work with DOE to ensure that tribal sovereignty is protected and treaty rights are adhered to with respect to Energy Policy Act provisions and Departmental tribal issues as a whole.
- STGWG tribes are concerned about the Global Nuclear Energy Partnership (GNEP) and how the program is being fast-tracked without proper tribal consultation. STGWG appreciates Dr. Triay and Michael Richard's commitments to engage the Office of Nuclear Energy when they return to D.C. to request that proper consultation will be followed in the near future.
- The full STGWG supports DOE hosting a Tribal Summit consistent with DOE's own Secretarial American Indian Policy. However, in light of the Secretary's decision to forgo a Summit this year, STGWG tribes will propose an alternative plan. STGWG will remain in communication with the Office of Congressional and Intergovernmental Affairs to see that tribal and DOE needs are addressed in a mutually beneficial manner.
- STGWG tribes look forward to coordinating efforts with Representative John McCoy and the National Caucus of Native American State Legislators.

NATURAL RESOURCE DAMAGES

- STGWG states and tribes are pleased with improved communications on the NRDA issue. In general, STGWG is encouraged that Dr. Triay committed to taking the NRDA issue back to the highest levels at DOE HQ with the concept of reducing life-cycle costs through cooperative assessments in mind.
- Regarding Hanford, Dr. Triay is committed to working with Michael Richard and Matthew Duchesne to ensure that proper tribal consultation is being followed.

Funding and the process for the cooperative assessment at Hanford are still unresolved. Dr. Triay stated that funding for NRDA will come from the current Hanford operational budget.

In addition, Dr. Triay committed to learning more about the land transfer from Hanford to the Pacific Northwest Site Office (DOE Office of Science) and its implications on cleanup and restoration of critical habitat.

- Regarding Los Alamos, Dr. Triay and Mr. Duchesne will work on a path forward, working with the non-federal Natural Resource Trustees to advance the NRDA process.

- Regarding Paducah, the state of Kentucky has requested that Matthew Duchesne restart discussions with Natural Resource Trustee Council. The state of Kentucky has also requested that DOE organize a meeting with the seven states that dealt with NRDA to look at proper data collection.

EM BUDGET AND COMPLIANCE ISSUES

- The states and tribes have a keen interest in the DOE FY08 Budget and out-year funding. STGWG is concerned with near-term declining budgets and the implications on meeting legally-binding milestones.
- DOE, through Dr. Triay, Mark Frei, and Frank Marcinowski, commented that DOE's difficulties in this regard are a result of flawed technological assumptions, regulatory assumptions, and budget constraints. DOE directs STGWG states and tribes to look at the recently released Five-Year Plan to see that DOE's planning assumptions call for increased funding levels in out-years. Moreover, DOE says that the validation of baselines through independent oversight is ongoing and will help make the case to OMB/Congress for budget increases in the future.
- Some states will enter negotiations with DOE to address the anticipated delays and missed deadlines. States primarily affected by declining budgets are Tennessee (Oak Ridge), New Mexico (Los Alamos), Kentucky (Paducah), and Oregon and Washington (Hanford). Conversations with regulators at each individual site will need to occur in order to determine site-specific issues of concern.

TRANSPORTATION ISSUES

- The Transportation External Coordination Working Group (TEC) is the main forum for discussions between all interested parties. The Tribal Topic Group met in Denver in April, and the full TEC-WG will meet in Kansas City in July.
- Jay Jones from the Office of Civilian and Radioactive Waste Management has offered to meet with STGWG tribes affected by transportation routes for radioactive waste shipments in the future.

LTS ISSUES

- STGWG continues to request greater clarity on how LTS is being planned and implemented. This would include issues such as how internal coordination between programs is accomplished, how long term funding is being addressed, and how LTS obligations are factored into cleanup decisions.
- The states of Missouri and New Mexico appreciate the conversation with NNSA on long-term stewardship at the Kansas City Plant, Sandia, and Los Alamos.
- In general, states and tribes are concerned with land transfers from DOE to different entities and the implications on ensuring that a remedy remains protective over time.

One way that state legislators are addressing this issue is by passing environmental covenant legislation that could be potentially applied to DOE sites, as was done at Rocky Flats.

ACTION ITEMS

- Dr. Triay summarized the following list of action items during her Thursday morning recap:
 - Assist Michael Richard to address tribal issues of concern and ensure appropriate consultation efforts are being made, including proper and adequate consultation with tribal nations at Hanford.
 - Work on validating baselines to better assess and communicate life cycle costs of the EM program, and exploring the NRDA cooperative assessment concept as a way to reduce life-cycle costs.
 - Focus on the work being done on NRDA around the complex, including identifying a path forward on NRDA with the non-federal Natural Resource Trustees at Los Alamos.
 - Work with the state of Kentucky on Site Management Plans.
 - Assist the State of KY in identifying sources for more information on the Worker Cohort Epidemiological Study.
 - Look into groundwater modeling at Hanford with respect to the Tank Cleanup and Waste Management EIS.
 - Continue to work on contractor performance issues at Los Alamos.
- Other DOE action items that came from discussions throughout the course of the meeting include:
 - Follow up on the land transfer from Hanford to the Pacific Northwest Site Office (DOE Office of Science) and its implications on cleanup and restoration of critical habitat.
 - Consider a meeting with the seven states that have dealt with/are dealing with NRDA to look at proper data collection methods.